IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.2764/2000.

Jagdish Prasad & Others. **Vs.** Govind Narayan & Others.

12.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.M.C.Jain, for the petitioners.
Mr.Nitin Jain, for the respondent No.1.
Mr.J.P.Goyal, for the respondent No.2.
Mr.Amit Sharma, for the respondent No.3.

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In this writ petition, the petitioners have challenged the orders Annexures-4, 5, 6 and 7 whereby the appeal and the revision filed by the petitioners against the orders of Gram Panchayat and Gram Samiti have been dismissed.

The petitioners have filed the present writ petition challenging the order of Additional Collector-II, Jaipur (Annexure-7) dated 31.12.1999 whereby the revision filed by the petitioners against the orders of Panchayat Samiti, Phagi dated 03.03.1999 and the Gram Panchayat dated 14.11.1982 has been dismissed.

The contention of the learned counsel for the petitioners in the writ petition was that the Gram Panchayat passed the order in favour of the respondents without affording any opportunity to the petitioners of hearing.

Learned Additional Collector-II, Jaipur vide order dated 31.12.1999 (Annexure-7) has come to a definite finding that before passing the order dated 29.01.1984, the site was inspected in the presence of the petitioner on 11.07.1983 and it is wrong to contend on behalf of the petitioner that no opportunity was afforded to the petitioner before passing the order. The learned Additional Collector-II, Jaipur came to the conclusion that the land over which the petitioners claim their title by virtue of Annexure-1 is part of the public *chowk* and *rasta*.

Learned counsel for the petitioner has sought to contend that Annexure-1 is a document of title of the petitioners and that same does not pertain to any public *chowk* or *rasta*.

I have perused the document-Annexure-1. The said document is supposed to be proceedings of the Gram Panchayat dated 17.06.1955 whereby allegedly the petitioner was given permission for raising construction on a land measuring 35' X 10'. The aforesaid resolution, as admitted by the learned counsel for the petitioner, has not resulted into any *patta* being issued by the Panchayat nor is it the *patta*. A resolution, in my opinion, cannot take the place of a *patta* which alone can be considered to be the document of title. The petitioners have failed to produce any document of title

in their favour in respect of their land.

In view of the above, the findings which have been arrived at by the learned Additional Collector-II while passing the order (Annexure-7) which is the impugned order in this writ petition cannot be said to be without any basis or evidence on record and do not, in my opinion, suffer from any error of procedure or error apparent on the face of the record.

Learned counsel for the petitioner also submitted that before the learned Additional Collector it was submitted that with respect to the land in dispute, there is also a civil suit pending before the learned Additional District Judge, Sambhar. Suffice it to say that in case the civil court decides the rights of the parties, the decree in the same shall abide and the parties to the suit shall be bound by the same.

This writ petition as well as the stay application consequently stand dismissed.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.